MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Clark To: Education

HOUSE BILL NO. 321

AN ACT TO AMEND SECTION 37-15-29, MISSISSIPPI CODE OF 1972, TO REQUIRE THE STATE BOARD OF EDUCATION TO ADOPT A POLICY ESTABLISHING UNIFORM RESIDENCY REQUIREMENTS FOR CHILDREN ENROLLED IN PUBLIC SCHOOLS TO BE ADHERED TO BY ALL LOCAL SCHOOL BOARDS; TO PROVIDE THAT THE POLICY SHALL NOT ABROGATE THE RIGHT OF ANY PARENT OR LEGAL GUARDIAN OF A CHILD TO LEGALLY TRANSFER THE CHILD TO ANOTHER SCHOOL DISTRICT; TO AMEND SECTION 37-15-31, MISSISSIPPI CODE OF 1972, WHICH ESTABLISHES GENERAL PROCEDURES FOR TRANSFERRING STUDENTS BETWEEN SCHOOL DISTRICTS UNDER CERTAIN CIRCUMSTANCES, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-15-29, Mississippi Code of 1972, is amended as follows:

37-15-29. (1) Except as provided in subsections (2), (3), (4) and (5) of this section, no minor child may enroll in or attend any school except in the school district of his residence, unless such child be lawfully transferred from the school district of his residence to a school in another school district in accord with the statutes of this state *** * ***.

(2) Those children whose parent(s) or legal guardian(s) are instructional personnel or *** * *** licensed employees of a school district may, at such employee's discretion, enroll and attend the

school or schools of their parent's or legal guardian's employment regardless of the residence of the child.

(3) No child shall be required to be transported in excess of thirty (30) miles on a school bus from his or her home to school, or in excess of thirty (30) miles from school to his or her home, if there is another school in an adjacent school district located on a shorter school bus transportation route by the nearest traveled road. Those children residing in such geographical situations may, at the discretion of their parent(s) or legal guardian(s), enroll and attend the nearer school, regardless of the residence of the child. In the event the parent or legal guardian of such child and the school board are unable to agree on the school bus mileage required to transport the child from his or her home to school, an appeal shall lie to the State Board of Education, or its designee, whose decision shall be final. The school districts involved in the appeal shall provide the Mississippi Department of Education with any school bus route information requested, including riding the buses as necessary, in order to measure the bus routes in question, as needed by the State Board of Education in considering the appeal.

(4) *** * *** The brother(s) and sister(s) of children lawfully transferred from the school district of *** * *** their residence to a school in another school district *** * ***, may, also at the discretion of their parent(s) or legal guardian(s), continue to enroll and attend school in the transferee school district.

Provided further, that the brother(s) and sister(s) of * * * children lawfully transferred * * * before July 1, 1992, may also, at the discretion of their parent(s) or legal guardian(s), enroll and attend school in the transferee school district.

(5) Those children whose parent(s) or legal guardian(s) are active members of the United States Armed Forces or civilian military personnel and reside on a military base, may, at the discretion of their parent(s) or legal guardian(s), enroll and attend the school district of their parent's or legal guardian's choosing, regardless of the residence of the child, provided the school district is where the student resides or * * * is an adjacent school district, and the parent's or guardian's choice of school district does not violate the provision of subsection (3) of this section prohibiting the transportation of students in excess of thirty (30) miles.

(6) The State Board of Education shall adopt a policy establishing uniform residency requirements for children enrolled in and attending public schools, which such policy must be implemented and adhered to by all local school boards. The adoption of this policy by the State Board of Education shall not abrogate, in any manner, the right of any parent or legal guardian of a child to legally transfer the child to another school district as authorized under this section and Section 37-15-31. However, if the parent or legal guardian chooses to legally transfer the child, the parent or legal guardian and the school

boards involved in the transfer must comply with the requirements of Section 37-15-31 and the policy adopted by the State Board of Education pursuant to this subsection.

SECTION 2. Section 37-15-31, Mississippi Code of 1972, is amended as follows:

37-15-31. (1) (a) Except as provided in subsections (2) through (5) of this section, upon the petition in writing of a parent or guardian resident of the school district of an individual student filed or lodged with the president or secretary of the school board of a school district in which the pupil has been enrolled or is qualified to be enrolled as a student under Section 37-15-9, or upon the aforesaid petition or the initiative of the school board of a school district as to the transfer of a grade or grades, individual students living in one school district or a grade or grades of a school within the districts may be legally transferred to another school district, by the mutual consent of the school boards of all school districts concerned, which consent must be given in writing and spread upon the minutes of such boards.

(b) The school board of the transferring school district to which *** * *** the petition may be addressed shall act thereon not later than its next regular meeting subsequent to the filing or lodging of the petition, and a failure to act within that time shall constitute a rejection of *** * *** the request. The school board of the other school district involved (the transferee

board) shall act on * * * the request for transfer as soon as possible after the transferor board shall have approved or rejected * * * the transfer and no later than the next regular meeting of the transferee board, and a failure of * * * the transferee board to act within * * * the specified time shall constitute a rejection of * * * the request. If * * * a transfer is approved by the transferee board, then * * * the decision shall be final. If * * * a transfer should be refused by the school board of either school district, then * * * the decision shall be final.

(c) Any legal guardianship formed for the purpose of establishing residency for school district attendance purposes shall not be recognized by the affected school board.

(2) (a) Upon the petition in writing of any parent or guardian who is a resident of Mississippi and is an instructional or licensed employee of a school district, but not a resident of * * * the employing district, the school board of the employer school district shall consent to the transfer of * * * the employee's dependent school-age children to its district and shall spread the same upon the minutes of the board. Upon the petition in writing of any parent or guardian who is not a resident of Mississippi and who is an instructional or licensed employee of a school district in Mississippi, the school board of the employer school district shall consent to the transfer of * * * the

employee's dependent school-age children to its district and shall spread the same upon the minutes of the board.

(b) The school board of any school district, in its discretion, may adopt a uniform policy to allow the enrollment and attendance of the dependent children of noninstructional and nonlicensed employees, who are residents of Mississippi but are not residents of their district. * * * The policy shall be based upon the employment needs of the district, implemented according to job classification groups and renewed each school year.

(c) The employer transferee school district shall notify in writing the school district from which the pupil or pupils are transferring, and the school board of the transferor school district shall spread the same upon its minutes.

(d) Any * * * agreement by school boards for the legal transfer of a student shall include a provision providing for the transportation of the student. In the absence of such a provision the responsibility for transporting the student to the transferee school district shall be that of the parent or guardian.

(e) Any school district which accepts a student under the provisions of this subsection shall not assess any tuition fees upon * * * the transferring student in accordance with the provisions of Section 37-19-27.

(3) Upon the petition in writing of any parent or legal guardian of a school-age child who is a resident of an adjacent school district residing in the geographical situation described

in Section 37-15-29(3), the school board of the school district operating the school located in closer proximity to the residence of the child shall consent to the transfer of the child to its district, and shall spread the same upon the minutes of the board. Any * * * agreement by school boards for the legal transfer of a student under this subsection shall include a provision for the transportation of the student by either the transferor or the transferee school district. In the event that either the school board of the transferee or the transferor school district shall object to the transfer, it shall have the right to appeal to the State Board of Education whose decision shall be final. However, if the school boards agreeing on the legal transfer of any student shall fail to agree on which district shall provide transportation, the responsibility for transporting the student to the transferee school district shall be that of the parent or guardian.

(4) Upon the petition in writing of any parent or legal guardian of a school-age child who was lawfully transferred to another school district * * * as described in Section 37-15-29(4), the school board of the transferee school district shall consent to the transfer of * * * that child and the transfer of any school-age brother and sister of * * * that child to its district, and shall spread the same upon the minutes of the board.

(5) (a) If the board of trustees of a municipal separate school district with added territory does not have a member who is

a resident of the added territory outside the corporate limits, upon the petition in writing of any parent or legal guardian of a school-age child who is a resident of the added territory outside the corporate limits, the board of trustees of the municipal separate school district and the school board of the school district adjacent to the added territory shall consent to the transfer of the child from the municipal separate school district to the adjacent school district. The agreement must be spread upon the minutes of the board of trustees of the municipal separate school district and the school board of the adjacent school district. The agreement must provide for the transportation of the student. In the absence of such a provision, the parent or legal guardian shall be responsible for transporting the student to the adjacent school district. Any school district that accepts a student under this subsection may not assess any tuition fees against the transferring student.

(b) Before September 1 of each year, the board of trustees of the municipal separate school district shall certify to the State Department of Education the number of students in the added territory of the municipal separate school district who are transferred to the adjacent school district under this subsection. The municipal separate school district also shall certify the total number of students in the school district residing in the added territory plus the number of those students who are transferred to the adjacent school district. Based upon these

figures, the department shall calculate the percentage of the total number of students in the added territory who are transferred to the adjacent school district and shall certify this percentage to the levying authority for the municipal separate school district. The levying authority shall remit to the school board of the adjacent school district, from the proceeds of the ad valorem taxes collected for the support of the municipal separate school district from the added territory of the municipal separate school district, an amount equal to the percentage of the total number of students in the added territory who are transferred to the adjacent school district.

SECTION 3. This act shall take effect and be in force from and after July 1, 2021.